Government of Saskatchewan

Annual Report 1984

Law Reform Commission of Saskatchewan

Saskatchewan

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Annual Report 1984

Law Reform Commission of Saskatchewan

The Law Reform Commission of Saskatchewan was established by *An Act to Establish a Law Reform Commission*, proclaimed in November, 1973, and began functioning in February of 1974.

The commissioners are:

Prof. DOUGLAS A. SCHMEISER, Q.C., B.A., LL.B., LL.M., S.J.D., Chairman
Madam Justice MARJORIE A. GERWING
Mr. GORDON J. KUSKI, Q.C., LL.B.
Mr. Kenneth P.R. Hodges, B.A., LL.B. is Director of Research.

Mr. Michael J. W. Finley, B.A., M.A., LL.B., and Mr. C. Peter Thagard, LL.B. are the Legal Research Officers, and Mr. Roderick J. Wood, LL.B., LL.M., Dip. in Legislative Drafting and Mrs. Sandy Antonini-Ready, B.A., LL.B. are Legal Research Officers under contract. The secretaries are Mrs. Sandra Ritchie and Miss Pat Harasymchuk. The summer students were Mr. Seumas Woods, Miss Pat Pitsula and Mr. Ted DeCoste.

The Commission offices are located at the Sturdy-Stone Centre, 122 Third Avenue North, Saskatoon, Saskatchewan, S7K 2H6.

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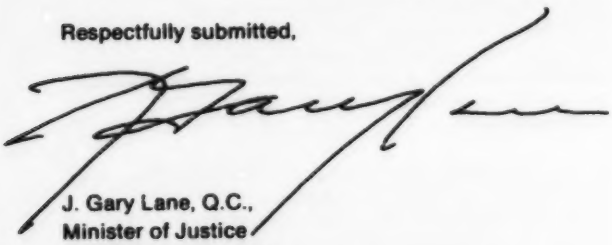
Letters of Transmittal

The Honourable F. W. Johnson, Q.C.,
Lieutenant Governor,
Province of Saskatchewan.

Sir:

I have the honour of submitting the annual report of the Law Reform Commission of Saskatchewan for the year ending December 31, 1984.

Respectfully submitted,



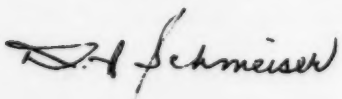
J. Gary Lane, Q.C.,
Minister of Justice
and Attorney General

The Honourable J. Gary Lane, Q.C.,
Minister of Justice,
Regina, Saskatchewan.

Sir:

I have the honour of submitting the annual report of the Law Reform Commission of Saskatchewan for the year ending December 31, 1984.

Respectfully submitted,



Douglas A. Schmeiser, Q.C.,
Chairman

Objectives of the Commission

The Law Reform Commission Act provides that:

"The commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law, and for that purpose shall:

(a) receive and consider any proposals for the reform of the law that may be made to it by the Minister of Justice;

(b) prepare and submit to the Minister of Justice from time to time programs for the examination of different branches of the law with a view to their reform and shall recommend that an agency, whether the commission or a committee thereof or other body, carry out the examination;

(c) undertake, at the request of the Minister of Justice or pursuant to recommendations of the commission approved by the Minister of Justice, the examination of particular branches of the law and the formulation, by means of draft bills or otherwise, or proposals for reform therein;

(d) enter into agreements, with the approval of the Minister of Justice, with other organizations for law reform for the purposes of attaining the aims of the commission." R.S.S. 1978, c. L-8, s. 6 as amended.

The Commission's role is to review provincial law and to assess criticisms of a significant nature from the general public against legislation and rules of the common law.

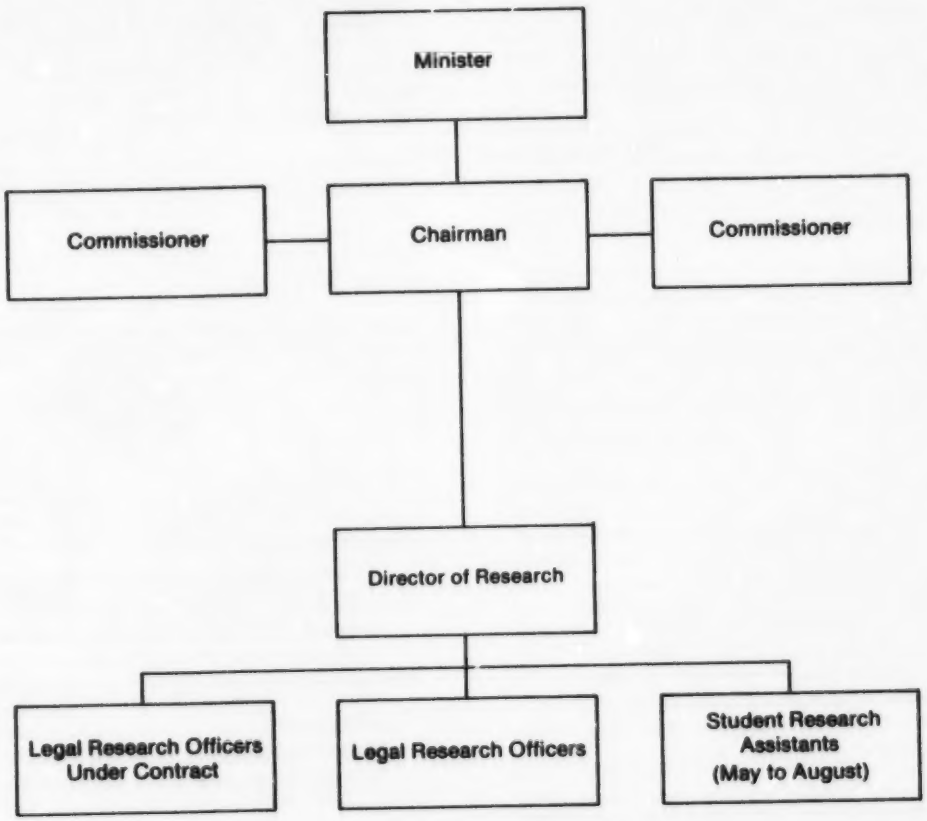
Topics for the Commission's research program are brought before meetings of the Commission for consideration. These topics may originate from a recommendation by the Minister of Justice, from the Commission and its staff, from the judiciary, from the legal profession, from other professional organizations, or from the public generally. If a proposal for law reform originates from sources other than the recommendation of the Minister of Justice, the Commission considers the proposal and, if it feels the proposal is one which requires research and report to the Minister of Justice, it will propose to the Minister of Justice that such research be undertaken. Once the consent of the Minister of Justice is obtained, a research program is instituted which culminates in a report to the Minister of Justice.

All research undertaken is supervised by the Chairman and Director of Research. Much of the research is done by the Commission's full-time staff. Many projects, however, require substantial outside consultation and expertise.

Consequently, the Commission relies on the academic staff of the College of Law of the University of Saskatchewan and elsewhere for research personnel. Legal practitioners also act as consultants from time to time and give to the Commission a practical assessment of possible recommendations for legislative and procedural change. The participation of practising lawyers is being facilitated through financial assistance provided by the Law Foundation of Saskatchewan.

Once the research study in a particular project is completed, the matter is placed before the Commission for discussion and consideration. The Commission may decide to issue background papers, or more likely papers in the form of tentative proposals, for circulation to the public in order to obtain criticism and comment prior to the preparation of a final report. This may entail public meetings, hearings and workshops. After public comment has been assessed, the Commission's recommendations are embodied in a final report to the Minister of Justice. This report may contain general recommendations, specific legislation or drafting instructions suggesting the form of legislation which will best implement the recommendations of the final report.

Organization Chart



Description of the Programs and Activities carried out during 1984

The programs and activities carried out during 1984 to a large extent are a continuation of projects commenced earlier. Some of the projects are extensive in scope and involve research in a number of areas of law.

I. Family Law Project

The Commission, with the consent of the Minister of Justice, initiated a research project on family law in June of 1974.

In 1974 the Commission issued a background paper entitled "Family Maintenance Between Husband and Wife". Shortly thereafter a background paper entitled "Children's Maintenance" was released.

Research in the area of maintenance procedures was completed and a report dealing with maintenance enforcement was released in March, 1982. Research into the substantive law of maintenance was also completed some time ago and it is expected that tentative proposals will be issued in 1985.

Two papers were completed in 1979: (1) "Tentative Proposals for Custody Law Reform, Part I: Substantive Law", and (2) "Tentative Proposals Relating to the Civil Rights of Children". A third paper entitled "Tentative Proposals for Custody Law Reform, Part II: Procedures and Support Services" was released in 1980. Based on these Tentative Proposals, a final report entitled "Proposals on Custody, Parental Guardianship and the Civil Rights of Minors" was issued in December, 1981.
In the area of married persons' property, a report entitled "Tentative Proposals for an Equality of Status of Married Persons Act" was issued in May, 1981 and a final report was released in May, 1982.

A draft paper on illegitimacy was completed some time ago. This paper has not however been approved by the Commission.

The Commission has been reviewing *The Matrimonial Property Act* which came into force on January 1, 1980, along with the relationship of that Act and *The Homesteads Act* as well as *The Dependants' Relief Act* and *The Intestate Succession Act*. Tentative Proposals for Reform of *The Matrimonial Property Act* were released in October, 1984, and it is expected that a final report will be submitted to the Minister of Justice early in 1985.

II. Consumer Credit Project

The study of consumer credit law in Saskatchewan and proposals for reform of it is a part of the overall study of personal property security law in Saskatchewan. The Commission decided that proposals for the reform of basic chattel security law should be developed first, since the structure and terminology of a totally reformed personal property security law system would necessarily be part of the reform of consumer credit law.

Pursuant to this approach, a final report entitled "Proposals for a Saskatchewan Personal Property Security Act" was issued in July, 1977. *The Personal Property Security Act* which stems from the proposals was enacted by the Legislature in 1980 and came into force on May 1, 1981.

The Consumer Credit Project is well underway and the following paper was released in 1980: "Tentative Proposals for a Consumer Credit Act, Part I: Background and Underlying Considerations, Part II: Statistics". A second paper entitled "Tentative Proposals for a Consumer Credit Act, Part III: Secured Consumer Credit Transactions, Summary of Recommendations" was issued in May, 1981. Further research is presently being considered for the following areas:

- Credit Grantor Responsibility for Defects in Merchants' Performance Obligations;
- Extra-Judicial Debt Collection Practices;
- Credit Insurance;
- Enforcement of Credit Consumer Rights;
- Disclosure;
- Credit Reporting;
- Discrimination in Credit Granting.

As the study progresses, it may be necessary to revise this list, add to it or consolidate two or more items into a single paper.

Professor Ronald C.C. Cuming, Q.C., College of Law, University of Saskatchewan, is in charge of this project. He is being assisted by the Commission staff.

III. Provincial Offences Project

A study of the doctrine of strict liability has been completed and a report entitled "Tentative Proposals for Defences to Provincial Offences" was released early in 1981. Formulation of the final report has been postponed pending release by the Alberta Institute of Law Research and Reform of its report entitled "Defences to Provincial Charges".

IV. Medical-Legal Project

A report dealing with the legal status of the dependent adult, entitled "Tentative Proposals for a Guardianship Act, Part I: Personal Guardianship" was released in January, 1981. There has been a considerable amount of response from the general public and in particular, interest has been shown in the report by the Saskatchewan Association for the Mentally Retarded. The final report was released in January, 1983.

"Tentative Proposals for a Human Artificial Insemination Act" was released in November, 1981. There have been a number of meetings of interested groups to discuss the Tentative Proposals including a meeting with representatives of the Saskatchewan Medical Association and the College of Physicians and Surgeons. Work is being done on a final report.

Following a study of the law governing civil commitment, "Tentative Proposals for a Compulsory Mental Health Care Act" was released late in 1981. Meetings with representatives of the Saskatchewan Medical Association and the College of Physicians and Surgeons took place in 1983. In addition the Commission was represented at hearings conducted by a Committee of Enquiry of the Canadian Mental Health Association throughout the province during 1983. A final report was completed in December, 1984.

"Tentative Proposals for a Lieutenant Governor's Review Board in Saskatchewan" was released early in 1984. These proposals were based on a report by Professor Peter MacKinnon, College of Law, University of Saskatchewan. It is expected that a final report will be issued in 1985.

V. Administrative Law Project

Preliminary research was done on this project during the summer of 1978 on (a) Statutory Powers of Decision in the Licensing/Inspection Category of the Statutes of Saskatchewan, and (b) A Review of Benefit/Compensation Statutes.

During 1980-81, a consultant worked in the areas of administrative procedures and remedies. The project is now being worked on by a member of the Commission staff.

VI. The English Statutes Project

This project involves consideration of the statute laws of England which are in force in this province. Too often lawyers are faced with the problem of determining whether or not an ancient English statute is or is not law in Saskatchewan. The British have been pruning and tidying their statutes for almost a century and in the interests of greater certainty, it is time for the common law provinces, including Saskatchewan, to put their own houses in order. Extensive work on this project was performed in 1984, and a paper is expected in 1985.

VII. The Limitation of Actions Act Project

This project involves major policy issues including mandatory notices of claims within specific periods of time, commencing actions within specific periods of time and the categorization or various actions to determine the appropriate limitation period.

Much preliminary research was completed by a student in the summer of 1979. A list of the limitation periods to be found in the Statutes of Saskatchewan prepared for this project was published in the *Saskatchewan Law Review* Vol. 45, No. 1, p. 103 and this has been of assistance to practising members of the bar.

A short report entitled "Tentative Proposals for Changes in Limitations Legislation, Part I: The Effect of Limitations on Title to Real Property" was released in July, 1981. Further work on this project is being continued by the Commission staff.

VIII. Frustrated Contracts Project

Saskatchewan is one of the few provinces that does not have legislation which regulates the rights of parties in cases where a frustrating event prevents or substantially affects performance of a contract. The common law rules dealing with frustration are generally unpredictable and unfair.

The Commission decided in 1979 to undertake a study of this area of law. The project consists of the following parts:

(a) An analysis of the present common law of Saskatchewan applicable to frustration of contracts. This part will illustrate and discuss all the problems which have been covered by the frustrated contracts legislation.

(b) An analysis of the common law and statutory provisions applicable to the frustration of contracts in the United States and the manner in which they deal with the problems which have been subjected to statutory regulation in Commonwealth jurisdictions.

Under heading (a) and (b) two types of issues will be dealt with:

(i) the circumstances in which the contract is deemed to be frustrated.
(ii) the legal effects of frustration.

(c) Reasons for legislation. This part will analyze the desirability of passing an Act regulating the substantive and/or the remedial law of frustration.

(d) Evaluation of the different statutes enacted elsewhere and their effect on the common law. This part will also contain a summary of recommendations and a proposed statute.

Professor Louis J. Romero, College of Law, University of Saskatchewan, prepared a report for the Commission. The project is now being continued by Mrs. Anne Skarsgard.

IX. Sale of Goods Act Project

Saskatchewan's sale of goods law like that of all other common law provinces in Canada, is based almost entirely on the English *Sale of Goods Act* of 1893. While some areas of sales law have been subject to special legislative measures, the general law of sales has never been revised in Saskatchewan since its enactment. Veneration of nineteenth century English sales law by Canadians has not been shared by the English. Their statute has been amended four times. It would be inaccurate to conclude that existing sales law is totally out of touch with the realities of modern commercial activity. The basic concepts of the 1893 *Act* remain relevant. Judicial development of sales law has been substantial over the years and generally has taken account of fundamental changes in sales practices. However, a strong case can be made for recodification and modernization of Canadian sales law.

In 1979, the Ontario Law Reform Commission released an extensive report on sale of goods law containing recommendations for extensive revision of the Ontario *Sale of Goods Act*. At the August meeting of the Uniform Law Conference held at Saskatoon, Saskatchewan, a motion was passed providing for the convening of a committee to examine the Ontario report and general sales law with a view to developing a Uniform Sale of Goods Act for all provinces in Canada.

In view of the fact that work in the area was to be carried out on a national level with the opportunity for co-operation among law reform agencies, the Commission decided that it should participate in the joint project under the auspices of the Uniform Law Conference.

The Uniform Law Conference Committee met regularly throughout 1980 and early 1981. Professor Cuming represented the Commission at these meetings and proposed substantial amendments to the Ontario Law Reform Commission Draft Act. The Committee reported to the Uniform Law Conference in August of 1981 and its report containing a uniform draft act was accepted.

Professor Ronald C. C. Cuming, Q.C., College of Law, University of Saskatchewan, is in charge of this project.

X. Products Liability Project

The Saskatchewan *Consumer Products Warranties Act* provides a regime of "strict liability" for consumer products. In other words, the *Act* provides recovery for loss resulting from defects in consumer products even though the supplier is not negligent in placing the product on the market. However, the *Act* does not apply to a situation where the product which has resulted in loss or injury is not a "consumer product" within the meaning of the *Act* or where the consumer product has been obtained for purposes of resale or for use in a business. For example, if a vehicle or a piece of equipment was purchased for use in business and as a result of a defect in it a person is injured, liability for the defect would have to be established under the law of negligence. Of course, in any action involving the liability, the nature of the proceedings, the burden of proof and the extent of recovery would be different from what it would be if *The Consumer Products Warranties Act* applied. Generally, the injured person would be in a much less advantageous position than would be a person injured as a result of a defect in a consumer product.

The Canadian law of tort has been very slow to accept "strict liability" as a basis for liability in cases of defective products, although in some circumstances our law has moved toward "strict liability" as a basis for liability in cases of defective products, through the use of the doctrine of *res ipsa loquitur*. By contrast, courts in American jurisdictions have rejected negligence and have developed "strict liability" as a basis for compensation of persons injured by defective goods. There is little indication that Canadian courts are yet prepared to follow the American lead.

However, there is a very strong undercurrent of dissatisfaction with existing Canadian law of negligence. Recently, the Ontario Law Reform Commission published a report on products liability which recommended a modified strict liability scheme to be implemented by legislation.

It is the conclusion of the Law Reform Commission of Saskatchewan that the time has come to "rationalize" the law of Saskatchewan so as to ensure that the likelihood of recovery for loss resulting from defective products does not depend upon the almost fortuitous event that the product causing the injury was sold under a transaction to which *The Consumer Products Warranties Act* applies.

A considerable amount of work was done during 1981. Professor Ronald C. C. Cuming, Q.C., College of Law, University of Saskatchewan, is in charge of this project.

XI. Guest Passenger Legislation

The owners and drivers of motor vehicles are ordinarily liable for injury caused by their negligence in highway traffic accidents. In 1936, however, the Saskatchewan *Vehicles Act* was amended to limit the right of gratuitous passengers to recover damages from the owners and drivers of vehicles in which they were carried to those cases where there was gross negligence or wilful and wanton misconduct on the part of the driver. Law Reform Commissions in a number of provinces have recommended that the ordinary standard of care should apply to claims for bodily injuries by passengers. Professor Ronald Fritz of the College of Law, University of Saskatchewan, prepared a draft paper which was released as a final report to the Minister of Justice early in 1984.

XII. Real Property Law

The Commission is planning a major research project on the real property law of Saskatchewan. Its scope and format have yet to be determined. It has been decided that the best way to proceed with the project is to identify a few areas of real property which are a matter of immediate concern. Two areas so identified are:

(1) the need for a *Quieting of Title Act;*

(2) foreclosure of mortgages and charges against land and cancellation of agreements for sale (including The Land Contracts (Actions) Act).

Some years ago the Commission engaged the services of a consultant who prepared a paper on the need for a *Quieting of Title Act.* The Commission came to the conclusion that with changes in the limitation periods governing titles, there was no need for such an Act. These changes were put forward in the Commission's report entitled, "Tentative Proposals for Changes in Limitations Legislation, Part I: The Effect of Limitations on Title to Real Property", issued as part of its Limitations of Actions Act Project in July, 1981.

A draft paper covering security interests in land has been prepared by the Commission staff and will be considered by the Commission.

XIII. The Land Titles Act Project

The Commission decided during the latter part of 1981 to undertake a fundamental review of *The Land Titles Act.* Particular attention will be paid to the machinery of the land titles system, the function of the registrar, the forms prescribed by the *Act,* the effect of registration, transfers, mortgages, leases and caveats with or without supporting documents, obsolete or what may be obsolete sections as well as the relationship of other statutes with *The Land Titles Act* such as *The Tax Enforcement Act, The Mineral Taxation Act* and *The Planning and Development Act.* The project is being carried on with representatives from Alberta, the Yukon, the Northwest Territories and others. Some of the fundamental principles underlining the Torrens system were discussed at a meeting held in Edmonton in December of 1981, and it is expected that there will be further meetings in this regard. In the meantime, it is expected that background research will be carried on throughout 1985.

XIV. Review of The Coroners Act

In response to suggestions received from a number of legal practitioners in Saskatchewan, the Commission decided to undertake a review of *The Coroners Act.* Some question the usefulness of the inquest in modern society; others are concerned about specific matters such as:

(1) jurisdiction and powers of coroners;

(2) the coroner's absolute discretion as to who shall be called as witnesses and who shall be given standing;

(3) the development of a type of professional jury rather than a jury picked at random;

(4) the right to counsel at an inquest;

(5) the right to be heard;

(6) the coroner's power to commit for contempt;

(7) questions of evidence such as self-incrimination and compellability;

(8) the Crown attorney's role;

(9) the authority of the Minister of Justice to stay or to permit an inquest to proceed in the face of criminal charges;

(10) the effectiveness of recommendations made by a coroner's jury;

(11) quashing an inquest.

Tentative proposals for a *Coroners Act* were drafted and released on a limited basis to coroners in Saskatchewan and governmental officials. A final report was issued in the fall of 1984.

XV. New Home Warranties

Many Saskatchewan residents buy newly constructed houses for use as family residences. However, the sale of houses by model and the growing specialization in components such as air conditioning and heating systems, have made it much more difficult for consumers to ensure that they are obtaining a building which meets certain basic standards of durability and safety. Unlike the purchaser of consumer goods, the purchaser of a new home in Saskatchewan is forced to rely substantially on common law. It is somewhat anomalous that the purchaser of a small appliance such as a toaster obtains the full protection afforded by the warranty provisions of *The Consumer Products Warranties Act*, whereas the purchaser of a house which has a much greater value receives no similar statutory protection and very little protection under the common law. At common law, in the absence of an express statement by the builder, implied warranties as to fitness of habitation or quality of workmanship and materials only apply if the house is not yet completed. If it is completed, the doctrine of *caveat emptor*, long since abolished in the area of sale of goods, still applies.

The deficiencies in the common law were recognized in Ontario, and a *New Home Warranties Act* was passed in 1967. The Commission has been exploring the feasibility of a study which would lead to recommendations for legislation providing purchasers of new homes in Saskatchewan with an adequate measure of legal protection against construction and material deficiencies and which would bring the law applicable to the sale and purchase of new homes more in line with that applicable to the sale and purchase of consumer goods. However the project is in abeyance until the services of a consultant are obtained.

XVI. The Enforcement of Money Judgments

The law of Saskatchewan dealing with the enforcement of money judgments is very much in need of modernization, consolidation and rationalization. Work in this area of the law which is large and complex will be undertaken if the services of a consultant can be obtained.

XVII The Guardianship Act: Part II: Property Guardianship

The Commission began a study of the law governing guardianship of the property of mentally incapacitated persons. Existing legislation is contained in several statutes such as *The Mentally Disordered Persons Act*, *The Administration of Estates of Mentally Disordered Persons Act*, *The Mental Health Act* and *The Trustee Act*. The study is to include a detailed review of the provisions of *The Mentally Disordered Persons Act* which in some aspects are out of date. The project is in abeyance at present.

XVIII. Costs of Accused on Acquittal

Recently arrangements were made with the President of the Law Reform Commission of Canada to undertake a study of Costs of Accused on Acquittal as a joint project. Professor Peter MacKinnon, College of Law, University of Saskatchewan, has agreed to act as consultant.

XIX. Review of The Marriage Act

Professor Ronald Fritz, College of Law, University of Saskatchewan has been engaged to review *The Marriage Act*. It is expected that he will have a paper prepared for consideration by the Commission early in 1985.

XX. Exemption Clauses

The services of Professor Donald H. Clark, College of Law, University of Saskatchewan, have been engaged to study the law governing exemption clauses.

XXI. Other Activities

On occasion, representatives of the Commission have met with or made presentations to public organizations, service groups and others, and have explained the role of law reform to students. When reports are released by way of tentative proposals, press releases are issued, press conferences held and appearances made on radio and television. While law reform often is a highly technical matter, law does not operate in a vacuum and every effort is made to keep the general public fully informed of the Commission's activities. The commission and its staff is always receptive to comments from organizations and members of the public.

Members of the Bar have been invited to suggest areas in need of reform, and have brought to the attention of the Commission many difficulties encountered in everyday practice. The Commission is attempting to involve the practising Bar to a greater degree in law reform, and has undertaken to deal with several smaller practice oriented problems, in some instances engaging the same lawyers who brought the anomalies to its attention.

Final Reports to the Minister of Justice in 1984*

Proposals for a New Coroners Act

This report is the culmination of a review of The Coroners Act. The role of the coroner has changed significantly since the time when he was primarily concerned with criminal investigations. The coroner remains, however, an important public figure charged with a duty to ensure that there is public scrutiny of unexplained deaths in the community.

The Commission's recommendations which are embodied in a proposed new Coroners Act are designed to reflect the modern role of the coroner, and facilitate better utilization of modern medical and other investigative techniques. Some of the recommendations are as follows:

(1) The Chief Coroner whose office was established in 1978 should be responsible for making recommendations to the Lieutenant Governor in Council respecting the need for appointment of new or additional coroners.

(2) One of the prime objectives of the coroner system is public safety. If the Chief Coroner as a "public watchdog" is to play a meaningful and effective role, the public has a right to hear what he has to say. Consequently he should be empowered to bring the need for change in industrial practices, construction standards or health regulations arising out of coroners' findings or juries' recommendations to public attention.

(3) Unlike the present Act, the proposed new Coroners Act is a complete code, specifying the duties and authority of coroners, and rules for conduct of inquests.

Proposals for Restoring Civil Remedies Lost upon Forfeiture under The Automobile Accident Insurance Act

This report examines the consequences of a breach of a term or condition of *The Automobile Accident Insurance Act* ("the A.A.I.A.") by a driver who is involved in an automobile accident caused by the negligence of another. If, for example, a motorist who has not renewed his license plates before the expiry date, stops at a red light, and another driver negligently collides with his vehicle, the consequences are surprising. Of course, the unlicensed vehicle is uninsured, so no claim can be made against Saskatchewan Government Insurance by the owner or driver of that vehicle. But the A.A.I.A. goes further: it substantially limits the amounts which the uninsured motorist can recover from the negligent motorist. This results in injustice, because the uninsured motorist must bear a loss for which he was in no way responsible. The report concludes that the law should be changed so that the right of action in tort against the negligent motorist is unimpaired.

The provision in the A.A.I.A. restricting civil remedies in the event of insurance forfeiture applies to any breach of the Act, including driving without a valid operator's licence or driving while over the legal blood-alcohol limit. The Commission's Report observes that although it is important to deter unlicensed or impaired drivers, such deterrence is properly the role of *The Vehicles Act* and *The Criminal Code*.

Proposals Relating to Ademption by Equitable Conversion

This project was initiated in response to a case involving an estate that came before the Saskatchewan Court of Appeal in 1982. The deceased by will, had given a parcel of farmland to a certain person. Before he died, he entered into an agreement with that person for sale of the same parcel. It appeared that the testator intended that the land would go to the beneficiary without any further obligation if he died before the purchase price was fully paid. The court, however, ruled otherwise. The beneficiary was obligated to pay the remaining annual instalments to the estate.

The Court of Appeal considered this result to be unfair, but was bound by a previous decision of the Supreme Court of Canada. In the course of its reasons for judgment, the Court of Appeal suggested that statutory reform might be appropriate.

The Court of Appeal followed the rule of "ademption by equitable conversion". Ademption occurs when property mentioned in a will is not part of the testator's estate at the time of his death. It may occur even if the property is only changed in form after the will is made. It is established law that an agreement for sale of land converts the vendor's interest from real property to personal property. This change is known as equitable conversion.

The Commission recommends amendment to *The Wills Act*. The amendment would provide that where a testator includes a gift of specific real property in his will, the beneficiary would be entitled to any interest the testator had in that property under an agreement for sale. The amendment would also apply to a sale and mortgage back.

*Copies are available from the offices of the Law Reform Commission.

Informal Reports to the Minister in 1984*

The Tax Enforcement Act — Section 33

This report deals with the "vacuum" which exists where a municipality elects to lease or exchange land obtained through tax enforcement proceedings instead of selling the land.

The Change of Name Act: Publication of Notice of Change of Name

This report deals with the requirement for publication of notice of change of name in those cases where the assumed name has been utilized for many years and the person involved wishes to have the records accurately reflect the name by which he is known.

*Copies are available from the offices of the Law Reform Commission.

Plans for the Year 1985

1. **Family Law Project**

It is expected that a final report recommending reform of The Matrimonial Property Act will be forwarded to the Minister of Justice early in 1985.

2. **Consumer Credit Project**

Work will continue on this project particularly in the areas of the cost of credit disclosure, credit insurance and credit grantors' liability for merchants' default in performance.

3. **Provincial Offences Project**

A final report entitled "Proposals for Defences to Provincial Offences" may be released some time in 1985.

4. **Medical Legal Project**

It is expected that a final report containing "Proposals for a Lieutenant Governor's Review Board in Saskatchewan" will be made to the Minister of Justice in 1985.

5. **Administrative Law Project**

The Commission staff will be working on this project during 1985.

6. **English Statutes Project**

Work will continue on a paper, dealing with old English Statutes in force in the province, which may be available in 1985 for study and comments by members of the legal profession.

7. **The Limitation of Actions Act Project**

The Commission staff will be working on this project during 1985.

8. **Frustrated Contracts Project**

It is expected that a paper will be released during 1985.

9. **Sale of Goods Project**

This project continues to be monitored by the consultant.

10. **Products Liability Project**

This project continues to be monitored by the consultant.

11. **Real Property Law Project**

This project is in abeyance at the present time.

12. **The Land Titles Act Project**

Background research will continue on this project throughout 1985.

13. **New Home Warranties**

This project is in abeyance at the present time.

14. **The Enforcement of Money Judgments Project**

This project is in abeyance at the present time.

15. **Property Guardianship**

This project is in abeyance at the present time.

16. **Costs of Accused on Acquittal**

This is a joint project with the Law Reform Commission of Canada and it is expected that the consultant will have a paper prepared for the two Commissions in 1985.

17. **Review of The Marriage Act**

It is expected that a paper reviewing The Marriage Act will be available in 1985.

18. **Exemption Clauses**

It is expected that the consultant will prepare a report on the law governing exemption clauses in 1985.

19. **Other Activities**

The Commission has undertaken a number of smaller practice-oriented projects and it is expected that recommendations will be made to the Minister of Justice concerning joint obligations, the rights of parents under *The Family Services Act*, the change of name of children of divorced parents, *The Labour Standards Act* (Section 59) and other matters.

Financial Information

Budget for fiscal year April 1, 1984 to March 31, 1985.

Appropriation:

Personal Services	$232,560
Other Expenses	85,560
	$319,120

The Law Foundation of Saskatchewan supports some of the Commission's work by "block funding". Under this arrangement the Commission has been able to engage the services of two full-time legal research officers. Some of the projects which have been or are being supported financially by the Foundation are: Review of The Matrimonial Property Act and the relationship of that Act with *The Homesteads Act, The Intestate Succession Act* and *The Dependants' Relief Act;* Committal under a Lieutenant Governor's Warrant; Consumer Credit; Frustrated Contracts; Testamentary Guardianship and Limitation of Actions.

The Commission wishes to express its appreciation to the Law Foundation of Saskatchewan for its financial assistance.